

**AMENDMENTS TO THE DRAWINGS:**

Please amend Fig. 3A to show an axis X of the container and an axis of the pump 30, as shown on the attached drawing sheet labeled "Annotated Marked-up Drawing." This amendment is incorporated in the attached "Replacement" drawing sheet containing amended Fig. 3A, which has been labeled "Amended."

Attachments:        One "Replacement" drawing sheet, including "Amended" Fig. 3A  
                         One "Annotated Marked-up Drawing" sheet showing changes

### **REMARKS**

By this Supplemental Response to Office Action, Applicant has removed the “(Amended)” claim status labels from claims 30, 33, 34, 43, 55, 78, 83, 84, 86, 87, 90 and 91, which are new claims with respect to the patent, but which have been amended herein relative to the form of those claims as first presented in the Preliminary Amendment filed November 9, 2001. The removal of the status labels is in response to the Office Action of July 9, 2009, in which the Examiner at page 2 implicitly asserts that the status labels are improper. Although Applicant believes that the prior status labels comply with 37 C.F.R. § 1.173(b)(2), in the interest of proceeding with examination on the merits for this application without further delay, Applicant has complied with the Examiner’s requirement by removing the status labels. If after thoughtful consideration of this Supplemental Response, the Examiner believes that the amendments are not in the proper form, the Examiner is cordially invited to call Applicant’s undersigned attorney, so that any issue regarding the form of the amendments can be resolved, and an examination on the merits can commence without further delay.

By this Supplemental Response, Applicant has amended claims 8, 11, 12, 18, 30, 33, 34, 43, 55, 78, 83, 84, 86, 87, 90 and 91, and canceled claims 10, 29, 32, and 70-77 without prejudice or disclaimer. No new matter has been added. Claims 1-9, 11-28, 30, 31, 33-69, and 78-91 are pending on the merits. Of the claims, claims 1-7 and 19-28 have been allowed; claims 18, 43-69, and 78-91 have been indicated as being allowable if amended to overcome a claim rejection under 35 U.S.C. § 112, second paragraph; and claims 10-13, and 32-35 have been indicated as reciting allowable subject matter. Office Action of February 6, 2008, at 6-7.

**I. Claim Amendments**

**A. Original Patent Claims**

Original patent claims 8, 11, 12, and 18, have been amended, as follows:

In claim 8, line 12, the subject matter previously recited in original patent claim 10 has been added, as follows:

-- wherein the body has a transverse partition separating a first space defining said reservoir from a second space surmounting the first space, said second space containing said pump mounted in said partition, the actuating element mounted on said pump, the outlet element and the conduit forming the flexible connection. --

The Examiner indicated that such an amendment would render claim 8 allowable.

Support for this amendment is found at least in original patent claim 10.

Claims 11 and 12, which previously depended from claim 10, have been amended to depend from amended claim 8, and support for these changes is found at least in original patent claims 11 and 12, respectively.

In claim 18, line 10, the following subject matter has been inserted:

-- wherein the body has a transverse partition separating a first space from a second space . . . . --

The subject matter recited in this amendment is supported at least in original patent claim 1.

## **B. Added Claims**

Claims 30, 33, 34, 43, 55, 78, 83, 84, 86, 87, 90, and 91, which were added by the Preliminary Amendment and Remarks filed November 9, 2001 ("Preliminary Amendment"), have been amended, as follows:

Claim 30, line 5, "the" has been changed to "a";

Claim 30, line 10, "the" has been changed to "a";

Claim 30, line 11, "the" has been changed to "an";

In claim 30, at line 13, the subject matter previously recited in added claim 32 has been incorporated into claim 30, as follows:

-- wherein said wall defines a space above said reservoir having an open end opposite said reservoir, said container having a traverse partition separating said reservoir from said space, said space containing a portion of said pump, said outlet element, and said conduit. --

(The Examiner indicated that such an amendment would render claim 30 allowable.

Support for this amendment is found at least in claim 32, which was added in the Preliminary Amendment.)

Claim 33, line 1, "32" has been changed to "30";

Claim 34, line 1, "32" has been changed to "30";

Claim 43, line 6, "the" has been changed to "a";

Claim 43, line 11, "the" has been changed to "an";

Claim 43, line 12, "the" has been changed to "an";

Claim 55, line 5, "the" has been changed to "a";

Claim 55, line 10, "the" has been changed to "an";

Claim 55, line 11, "the" has been changed to "an";

Claim 78, line 6, "the" has been changed to "a";  
Claim 83, line 5, "the" has been changed to "a";  
Claim 84, line 5, "the" has been changed to "a";  
Claim 86, line 5, "the" has been changed to "a";  
Claim 87, line 5, "the" has been changed to "a";  
Claim 90, line 5, "the" has been changed to "a";  
Claim 90, line 11, "the" has been changed to "an";  
Claim 90, line 12, "the" has been changed to "an";  
Claim 91, line 5, "the" has been changed to "a";  
Claim 91, line 11, "the" has been changed to "an"; and  
Claim 91, line 12, "the" has been changed to "an."

The amendments to claims 33, 34, 43, 55, 78, 83, 84, 86, 87, 90, and 91 are to change the dependency of the claims or to correct minor informalities. Such amendments are not intended to narrow the scope of these claims, and these claims should be interpreted in that light. In addition, due to the nature of these amendments, Applicant respectfully submits that the subject matter of these amendments is supported in the patent.

## **II. Claim Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 18 and 30-91 were rejected under § 112, second paragraph, as purportedly being indefinite. Claim 18 was rejected based on an allegation that "the second space" and "the transverse partition" lack proper antecedent basis. Office Action of February 6, 2008, at 2. As outlined above, Applicant has amended claim 18

and respectfully submits that amended claim 18 fully complies with 35 U.S.C. § 112, second paragraph.

Claims 30, 43, 55, 70, 78, 83, 84, 86, 87, 90, and 91 were also rejected under § 112, second paragraph, based on the rejection statement's allegation that at least one of "the top" and "the axis" recited in those claims lacks proper antecedent basis. Office Action of February 6, 2008, at 2. As outlined above, Applicant has amended those claims such that, where appropriate, those claims recite "a top" and/or "an axis" instead of "the top" and/or "the axis." Applicant respectfully submits that claims 30, 43, 55, 70, 78, 83, 84, 86, 87, 90, and 91 fully comply with 35 U.S.C. § 112, second paragraph.

For at least the above-outlined reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 18 and 30-91 under § 112, second paragraph.

### **III. Objection to the Drawings**

The drawings were objected to, allegedly because "the axis of said container and in a direction such that the axis of said pump is farther from the product outlet than is the axis of said container," a version of which is recited in claims 8, 28-30, 43, 55, 70, 90, and 91, is not shown in the drawing figures. Office Action of February 6, 2008, at 2-3. By this Supplemental Response, Applicant has amended Fig. 3A to show an axis X of the container and an axis of the pump 30, as shown on the attached drawing sheet labeled "Annotated Marked-up Drawing." This amendment is incorporated in the attached "Replacement" drawing sheet containing amended Fig. 3A, which has been

labeled "Amended." Support for these amendments to the drawings is found at least at column 5, line 64 through col. 6, line 3 of the patent.

Applicant respectfully requests reconsideration and withdrawal of the objection to the drawings.

**IV. Claim Rejection under 35 U.S.C. § 102(b) based on De Freitas**

Claims 8, 15, 29, 30, 40-42, 70-74, and 77 were rejected under 35 U.S.C. § 102(b) based on U.S. Patent Number 4,429,813 to De Freitas ("De Freitas"). Claims 8, 29, 30, and 70 are the only independent claims included in that claim rejection. Although Applicant does not agree with the rejection of independent claims 8, 29, 30, and 70, Applicant has, in order to expedite the issuance of the Notice of Allowance, canceled claims 29 and 70 without prejudice or disclaimer, and has amended claims 8 and 30 to incorporate the subject matter of claims 10 and 32, respectively, which the Examiner indicated would render claims 8 and 30 allowable. Support for these amendments may be found in the Remarks section of the Preliminary Amendment, since all of the subject matter recited in the amendments was included in the Preliminary Amendment.

For at least the reasons above, Applicant respectfully submits that amended independent claims 8 and 30 are allowable, and requests reconsideration and withdrawal of the § 102(b) claim rejection based on De Freitas.

**V. Claim Rejections under 35 U.S.C. § 103(a)**

Claims 9, 14, 16, 17, 31, 36-39, 75, and 76 were rejected under 35 U.S.C. § 103(a) based on De Freitas, either alone or in combination with one of U.S. Patent No. 5,238,156 to Andris, U.S. Patent No. 5,693,278 to Clements, and U.S. Patent No. 5,332,129 to Brattoli et al. Claims 75 and 76 have been canceled without prejudice of disclaimer, and since each of claims 9, 14, 16, 17, 31, and 36-39 depends from a corresponding one of allowable independent claims 8 and 30, they should be allowable for at least the same reasons the corresponding independent claim is allowable.

For at least those reasons, Applicant respectfully requests reconsideration and withdrawal of the claim rejections under 35 U.S.C. § 103(a).

**VI. Conclusion**

For at least the reasons outlined above, Applicant's claims 1-9, 11-28, 30, 31, 33-69, and 78-91 should be allowable.

Applicant does not believe that a Supplemental Oath or Declaration should be required for the above-outlined amendments, since Applicant does not believe that any of the claim amendments is substantive. Rather, the above-outlined amendments have been made to correct minor informalities and/or to incorporate subject matter into the pertinent claims that was previously claimed and examined. If, however, the Examiner believes that a Supplemental Oath or Declaration should be submitted, Applicant cordially invites the Examiner to contact Applicant's undersigned attorney at (404) 653-6559 to discuss this issue.



Applicant respectfully requests reconsideration of this application, withdrawal of the drawing objection and claim rejections, and allowance of claims 1-9, 11-28, 30, 31, 33-69, and 78-91.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney.

Applicant respectfully submits that the Office Action of February 6, 2008, contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

Please grant any extensions of time required to enter this Amendment and charge any required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: August 10, 2009

By: /Christopher T. Kent/  
Christopher T. Kent  
Reg. No. 48,216

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